

Senate Amendment 5136

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1 1 Amend House File 2362, as passed by the House, as
1 2 follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <DIVISION I
1 6 MERCURY=FREE VEHICLE ACT
1 7 Section 1. FINDINGS AND DECLARATIONS.
1 8 1. The general assembly finds all of the
1 9 following:
1 10 a. Mercury=added switches have been used for
1 11 convenience lighting in vehicles sold in this state.
1 12 b. Mercury from the mercury=added switches may be
1 13 released into the environment when end-of=life
1 14 vehicles are flattened, crushed, shredded, melted, or
1 15 otherwise processed for recycling.
1 16 c. Removing mercury=added switches from end-of=
1 17 life vehicles is an effective way to prevent mercury
1 18 from being released into the environment.
1 19 d. It is in the public interest of the residents
1 20 of this state to reduce the quantity of mercury
1 21 entering the environment by removing mercury=added
1 22 switches from end-of=life vehicles.
1 23 e. Pollution prevention is the preferred strategy
1 24 to reduce mercury in the environment and is a more
1 25 desirable strategy than waste management and pollution
1 26 control. Preventing mercury or mercury=containing
1 27 components from entering thermal combustion units is
1 28 an effective way to reduce mercury emissions into the
1 29 environment.
1 30 f. Vehicle mercury=added switch collection
1 31 programs are being established across the United
1 32 States to protect human health and the environment.
1 33 2. The general assembly declares that the purpose
1 34 of this division is to reduce the quantity of mercury
1 35 in the environment by doing all of the following:
1 36 a. Removing mercury from vehicles in commerce and
1 37 end-of=life vehicles in Iowa.
1 38 b. Creating a collection and recovery program for
1 39 mercury switches removed from vehicles in Iowa.
1 40 c. Establishing a system to store the mercury
1 41 collected and recovered from vehicle components in the
1 42 event that environmentally appropriate management
1 43 technologies are not available.
1 44 d. Promoting the design of future vehicles for
1 45 maximum environmental protection and recyclability at
1 46 the end of their useful lives by implementing a design
1 47 for a recycling program which includes phasing out the
1 48 use of mercury in future vehicle models.
1 49 Sec. 2. NEW SECTION. 455B.801 SHORT TITLE.
1 50 This division shall be known and may be cited as
2 1 the "Mercury=Free Vehicle Act".
2 2 Sec. 3. NEW SECTION. 455B.802 DEFINITIONS.
2 3 As used in this division, unless the context
2 4 otherwise requires:
2 5 1. "Capture rate" means the amount of mercury
2 6 removed, collected, and recovered from vehicles in
2 7 commerce and end-of=life vehicles, expressed as a
2 8 percentage of the total mercury available from
2 9 vehicles in commerce and end-of=life vehicles
2 10 annually.
2 11 2. "Closed loop recycling system" means a system
2 12 whereby materials or components are routinely
2 13 collected and handled within a process or managed
2 14 system that controls the materials or components for
2 15 reuse, remanufacturing, recycling, or otherwise
2 16 prevents the materials or components from entering the
2 17 waste stream.
2 18 3. "End-of=life vehicle" means any vehicle that
2 19 does not exceed ten thousand pounds gross vehicle
2 20 weight which is sold, given, or otherwise conveyed to
2 21 a vehicle recycler or scrap recycling facility for the
2 22 purpose of recycling.
2 23 4. "Manufacturer" means any person which is the
2 24 last person to produce or assemble a new vehicle that

2 25 utilizes mercury=added components, or in the case of
2 26 an imported vehicle, the importer or domestic
2 27 distributor of such vehicle.

2 28 5. "Manufacturer=dealer warranty program" means an
2 29 arrangement between a manufacturer and a franchisee of
2 30 the manufacturer, whereby the manufacturer agrees to
2 31 reimburse the franchisee, at an established rate, for
2 32 labor or parts necessary to repair a vehicle pursuant
2 33 to the manufacturer's original equipment warranty to
2 34 the original purchaser of the vehicle.

2 35 6. "Mercury=added component" means a component
2 36 that contains mercury which was intentionally added in
2 37 order to provide a specific characteristic,
2 38 appearance, or quality or to perform a specific
2 39 function, or for any other reason. Such components
2 40 may include, but are not limited to, switches,
2 41 sensors, lights, and navigational systems used in
2 42 vehicles.

2 43 7. "Mercury=added switch" means a light switch
2 44 that contains mercury which was installed by an
2 45 automotive manufacturer in a motor vehicle.

2 46 8. "Scrap recycling facility" means a fixed
2 47 location where machinery and equipment are utilized
2 48 for processing and manufacturing scrap metal into
2 49 prepared grades and whose principal product is scrap
2 50 iron, scrap steel, or nonferrous metallic scrap for
3 1 sale for remelting purposes.

3 2 9. "Service replacement part" means a part that is
3 3 identical to an original equipment part and that is
3 4 used exclusively in the repair or service of original
3 5 equipment components.

3 6 10. "Vehicle in commerce" means any vehicle that
3 7 does not exceed ten thousand pounds gross vehicle
3 8 weight offered for sale by a motor vehicle dealer or
3 9 registered in this state to be operated on public
3 10 roads and highways.

3 11 11. "Vehicle recycler" means any person engaged in
3 12 the business of acquiring, dismantling, or destroying
3 13 six or more vehicles in a calendar year for the
3 14 primary purpose of resale of the vehicles' parts.

3 15 Sec. 4. NEW SECTION. 455B.803 PLANS FOR REMOVAL,
3 16 REPLACEMENT, COLLECTION, AND RECOVERY OF VEHICLE
3 17 MERCURY SWITCHES.

3 18 1. Within ninety days of the effective date of
3 19 this Act, each manufacturer of vehicles sold in this
3 20 state shall, individually or as part of a group,
3 21 submit to the department for review and approval a
3 22 plan for a system to remove, replace, collect, and
3 23 recover mercury=added switches in vehicles
3 24 manufactured by the manufacturer.

3 25 2. a. Upon approval of the plan, the manufacturer
3 26 shall implement a system to remove; replace, when
3 27 possible; collect; and recover mercury=added switches
3 28 from vehicles in commerce and end-of-life vehicles.
3 29 For vehicles in commerce, the system shall provide for
3 30 the removal, collection, and recovery of mercury=
3 31 added switches, and when possible replace the mercury=
3 32 added switches with mercury-free alternatives. The
3 33 system shall also provide for the removal, collection,
3 34 and recovery of mercury=added switches from end-of=
3 35 life vehicles.

3 36 b. The system developed and implemented pursuant
3 37 to this section shall include, at a minimum, all of
3 38 the following:

3 39 (1) An education program to inform the public and
3 40 other stakeholders about the purpose of the collection
3 41 program and how to participate in the program.

3 42 (2) A plan for implementing and financing the
3 43 system, in accordance with subsection 3.

3 44 (3) Documentation of the willingness of all
3 45 necessary parties to implement the proposed system.

3 46 (4) Information identifying the make, model, and
3 47 year of vehicles containing mercury=added switches, a
3 48 description of the component, the location of these
3 49 components, and the safe, cost-effective, and
3 50 environmentally sound methods for the removal of the
4 1 mercury=added switches from vehicles in commerce and
4 2 end-of-life vehicles.

4 3 (5) A target mercury=added switch capture rate for
4 4 vehicles manufactured by the manufacturer of at least
4 5 ninety percent, consistent with the principle that

4 6 mercury=added switches shall be recovered unless the
4 7 part is inaccessible due to significant damage to the
4 8 vehicle in the area surrounding where the mercury=
4 9 added switch is located.

4 10 (6) A description of the performance measures to
4 11 be utilized and reported on by the manufacturer to
4 12 demonstrate that the system is meeting the capture
4 13 rate identified in subparagraph (5) and other measures
4 14 of program effectiveness, including, but not limited
4 15 to, the number of switches collected from both end=
4 16 of-life and vehicles in commerce, the amount of
4 17 mercury collected, the number of vehicles manufactured
4 18 by the manufacturer containing mercury=added switches,
4 19 and the number of vehicles manufactured by the
4 20 manufacturer processed for recycling by vehicle
4 21 recyclers.

4 22 (7) A description of additional or alternative
4 23 actions that shall be implemented by the manufacturer
4 24 to improve the system and its operation in the event
4 25 that the program capture rate targets established
4 26 under subparagraph (5) are not met.

4 27 (8) A plan to store the mercury collected and
4 28 recovered from vehicle components in the event that
4 29 environmentally appropriate management technologies
4 30 are not available.

4 31 c. In developing a removal, replacement,
4 32 collection, and recovery system for vehicles in
4 33 commerce, a manufacturer shall, to the extent
4 34 practicable, utilize existing dealerships, service
4 35 stations, inspection stations, repair shops, and other
4 36 facilities which regularly service vehicles in
4 37 commerce. If a manufacturer does not utilize such
4 38 infrastructure, the manufacturer shall include in its
4 39 plan the reasons for establishing a separate removal,
4 40 replacement, collection, and recovery infrastructure.

4 41 d. In developing a removal, collection, and
4 42 recovery system for end-of-life vehicles, a
4 43 manufacturer shall, to the extent practicable, utilize
4 44 the existing end-of-life vehicle recycling
4 45 infrastructure. If a manufacturer does not utilize
4 46 such infrastructure, the manufacturer shall include in
4 47 its plan the reasons for establishing a separate
4 48 removal, collection, and recovery infrastructure.

4 49 3. The total cost of the removal, replacement,
4 50 collection, and recovery system for mercury=added
5 1 switches shall be paid by the manufacturer. Costs
5 2 shall include, but not be limited to, all of the
5 3 following:

5 4 a. Labor to remove, and replace where possible,
5 5 mercury=added switches. Labor shall be reimbursed at
5 6 a rate of four dollars per mercury=added switch
5 7 removed.

5 8 b. Training.

5 9 c. Packaging in which to transport mercury=added
5 10 switches to recycling, storage, or disposal
5 11 facilities.

5 12 d. Shipping of mercury=added switches to
5 13 recycling, storage, or disposal facilities.

5 14 e. Recycling, storage, or disposal of the mercury=
5 15 added switches.

5 16 f. Public education materials and presentations.

5 17 g. Maintenance of all appropriate systems and
5 18 procedures to protect the environment from mercury
5 19 contamination.

5 20 4. The department shall do all of the following:

5 21 a. Within thirty days of receipt of a
5 22 manufacturer's plan, issue public notice and solicit
5 23 public comment on the manufacturer's plan.

5 24 b. Within ninety days after receipt of a
5 25 manufacturer's plan, the department shall do one of
5 26 the following:

5 27 (1) Determine whether the plan complies with this
5 28 section. If the entire plan complies with this
5 29 section, the department shall approve the plan and the
5 30 manufacturer shall begin implementation as soon as is
5 31 practicable. If the entire plan does not comply with
5 32 this section, the department shall reject the plan and
5 33 inform the manufacturer of the reasons for the
5 34 rejection. A manufacturer that has had a plan
5 35 rejected shall have thirty days after receiving notice
5 36 of the rejection to submit a new plan.

5 37 (2) If any part of the plan meets the requirements
5 38 of this section, the department shall approve that
5 39 part of the plan and disapprove any part of the plan
5 40 that does not comply with this section. The
5 41 manufacturer shall immediately implement all approved
5 42 parts of a plan as soon as is practicable and shall
5 43 submit a revised plan addressing the rejected parts of
5 44 the plan within thirty days after receipt of
5 45 notification of the department's partial rejection.
5 46 The department shall review a manufacturer's revised
5 47 plan within thirty days of receipt of the revised
5 48 plan.

5 49 c. Two hundred forty days after the date of
5 50 enactment of this Act, the department shall complete,
6 1 on behalf of a manufacturer, any portion of the plan
6 2 that has not been approved and the manufacturer shall
6 3 implement the plan as soon as is practicable.

6 4 d. The department shall review a manufacturer's
6 5 plan three years after the original date of approval
6 6 of the plan and every three years thereafter. The
6 7 department shall require modifications to the plan as
6 8 appropriate at the conclusion of the review and may
6 9 recommend cessation of activities pursuant to this
6 10 division if the department determines that mercury
6 11 reduction targets have been met.

6 12 Sec. 5. NEW SECTION. 455B.804 PROHIBITION AND
6 13 PROPER MANAGEMENT OF MERCURY=ADDED VEHICLE COMPONENTS.

6 14 1. Prior to delivery to a scrap recycling
6 15 facility, a person who sells, gives, or otherwise
6 16 conveys ownership of an end-of-life vehicle to the
6 17 scrap recycling facility for recycling shall remove
6 18 all mercury=added switches from such end-of-life
6 19 vehicle unless the mercury=added switch is
6 20 inaccessible due to significant damage to the end-of-
6 21 life vehicle in the area where the mercury=added
6 22 switch is located.

6 23 2. Notwithstanding subsection 1, a scrap recycling
6 24 facility may agree to accept an end-of-life vehicle,
6 25 which has not been intentionally flattened, crushed,
6 26 or baled, with mercury=added switches. If a scrap
6 27 recycling facility enters into such an agreement, the
6 28 scrap recycling facility shall be responsible for
6 29 removing such switches.

6 30 3. A person shall not represent that mercury=added
6 31 switches have been removed from a vehicle or vehicle
6 32 hulk being sold, given, or otherwise conveyed for
6 33 recycling if that person has not removed such mercury=
6 34 added switches or arranged with another person to
6 35 remove such switches.

6 36 Sec. 6. NEW SECTION. 455B.805 PHASEOUT OF
6 37 MERCURY=ADDED VEHICLE COMPONENTS AND EXEMPTIONS.

6 38 1. After June 30, 2008, to prevent emissions or
6 39 other releases of mercury from vehicles, a
6 40 manufacturer shall ensure that a mercury=added
6 41 component shall not be included as part of a new
6 42 vehicle manufactured by the manufacturer and offered
6 43 for sale in this state except as specified in
6 44 subsection 2.

6 45 2. All of the following components shall be exempt
6 46 from subsection 1 under the specified conditions:

6 47 a. Electronic display screens, including but not
6 48 limited to navigation systems, computer screens, and
6 49 entertainment systems where mercury is present at
6 50 concentrations of less than twenty milligrams per
7 1 screen, provided that both of the following criteria
7 2 are met:

7 3 (1) A technically and economically feasible
7 4 alternative does not exist that does not contain
7 5 mercury.

7 6 (2) By January 1, 2007, the manufacturer has
7 7 established a closed loop recycling system that
7 8 encourages vehicle recyclers to routinely transport
7 9 such components to dealerships or other designated
7 10 places of business.

7 11 b. Until January 1, 2012, mercury=added headlamps,
7 12 including but not limited to high-intensity discharge
7 13 lamps, for any manufacturer that demonstrates as of
7 14 January 1, 2008, that at least fifty percent of that
7 15 manufacturer's vehicles with high-intensity discharge
7 16 lamps for sale in this state do not contain mercury.

7 17 c. A mercury=added component in a vehicle that is

7 18 necessary in order to comply with federal or state
7 19 health or safety requirements, or for purposes of
7 20 national security, upon demonstration by the
7 21 manufacturer that a technically feasible alternative
7 22 does not exist that does not contain mercury, and that
7 23 such component will substantially improve public
7 24 health and safety considering any impacts the
7 25 component may have on overall public safety on the
7 26 roads, and the life-cycle impacts of the mercury use.
7 27 3. Effective two years after the effective date of
7 28 this Act, a mercury-added component shall not be
7 29 offered for sale for use in a vehicle after the
7 30 vehicle's initial sale, except service replacement
7 31 parts may be sold if either of the following
7 32 requirements are satisfied:
7 33 a. In the case of electronic display screens,
7 34 mercury is present at concentrations of less than
7 35 twenty milligrams per component and the manufacturer
7 36 has established a closed loop recycling system for the
7 37 screens.
7 38 b. In all other cases, mercury is present at
7 39 concentrations of less than ten milligrams per
7 40 component.
7 41 4. A manufacturer must apply, or reapply, to the
7 42 department for an exemption under subsection 2 or 3.
7 43 a. An application for an exemption must be in
7 44 writing, in a form acceptable to the department,
7 45 stating the need for an exemption and the legal basis
7 46 for an exemption. Subject to the issuance of public
7 47 notice and solicitation of public comment, the
7 48 department shall, within ninety days of receiving the
7 49 application, accept or reject the application for an
7 50 exemption. Specific documentation in the application
8 1 must include the quantity of mercury in the component
8 2 and all of following, as applicable:
8 3 (1) In the case of electronic display screens,
8 4 whether original equipment or a service replacement
8 5 part, documentation that a technically and
8 6 economically feasible alternative is not available
8 7 that does not contain mercury, and a description of
8 8 how the manufacturer will establish and maintain a
8 9 closed loop recycling system.
8 10 (2) In the case of mercury-added headlamps, the
8 11 estimated number of vehicles that will be produced
8 12 with such component, as well as the manufacturer's
8 13 plans to meet the phaseout requirements specified in
8 14 subsection 2, paragraph "b".
8 15 (3) In the case of components necessary to meet
8 16 health and safety requirements, or for national
8 17 security, documentation that a technically feasible
8 18 alternative that does not contain mercury is not
8 19 available, and the impact of such components on public
8 20 health and safety considering any impacts the
8 21 components may have on overall public safety on the
8 22 roads, and the life-cycle impacts of the mercury use.
8 23 (4) In the case of service replacement parts,
8 24 documentation that the part is identical to an
8 25 original equipment part and used exclusively in the
8 26 repair or service of original equipment components.
8 27 b. An exemption granted under this subsection by
8 28 the department shall be valid for a period of two
8 29 years except where the provisions of subsection 2,
8 30 paragraph "b", specify a different time period. An
8 31 exemption granted under this subsection shall be
8 32 renewable for periods not to exceed four years, as
8 33 determined by the department.
8 34 c. If granted an exemption, any vehicle that may
8 35 contain a mercury-added component shall be labeled by
8 36 the manufacturer in a manner to clearly inform
8 37 purchasers and dismantlers that mercury is present in
8 38 the vehicle, and that the component may not be
8 39 disposed of or placed in a waste stream destined for
8 40 disposal until the mercury is removed or reused,
8 41 recovered, or properly disposed of as a hazardous
8 42 waste or otherwise managed to ensure that the mercury
8 43 does not become mixed with other solid waste. The
8 44 label shall identify the component with sufficient
8 45 detail so that it may be readily located for removal.
8 46 The label shall be placed on the doorpost of each
8 47 vehicle that may contain a mercury-added component and
8 48 be constructed of materials that are sufficiently

8 49 durable to remain legible for the useful life of the
8 50 vehicle.

9 1 5. Manufacturers, when designing vehicles and
9 2 their components for sale in this state, shall do all
9 3 of the following:

9 4 a. To the maximum extent practicable, reduce or
9 5 eliminate hazardous substances like mercury from the
9 6 manufacturer's vehicles.

9 7 b. Ensure that the manufacturer's vehicles are
9 8 designed to be recycled in a safe, cost-effective, and
9 9 environmentally sound manner, using existing
9 10 technologies and infrastructures.

9 11 c. Where a vehicle is found to present
9 12 environmental risks that make it uneconomical to
9 13 recycle, the manufacturer shall make appropriate
9 14 design or manufacturing changes.

9 15 Sec. 7. NEW SECTION. 455B.806 GENERAL COMPLIANCE
9 16 WITH OTHER PROVISIONS.

9 17 Except as expressly provided in this division,
9 18 compliance with this division shall not exempt a
9 19 person from compliance with any other law.

9 20 Sec. 8. NEW SECTION. 455B.807 REGULATIONS.

9 21 The commission shall adopt rules pursuant to
9 22 chapter 17A as necessary to implement the provisions
9 23 of this division.

9 24 Sec. 9. NEW SECTION. 455B.808 PUBLIC
9 25 NOTIFICATION AND COMMENT.

9 26 1. The department shall issue public notice and
9 27 solicit public comment on both of the following:

9 28 a. The removal, replacement, collection, and
9 29 recovery plans submitted by a manufacturer pursuant to
9 30 section 455B.803.

9 31 b. An application or reapplication for an
9 32 exemption from the phaseout provisions of section
9 33 455B.805.

9 34 2. A notification and solicitation of public
9 35 comment shall be issued within thirty days of
9 36 receiving a plan or an application or reapplication
9 37 for an exemption from the manufacturer. The
9 38 department shall give the general public adequate time
9 39 to comment on the proposals.

9 40 3. Public comments received within the ninety-day
9 41 review period of these provisions shall be considered
9 42 by the department when making its decision to accept
9 43 or reject either a plan or an application or
9 44 reapplication for an exemption.

9 45 Sec. 10. NEW SECTION. 455B.809 REPORTING.

9 46 One year after the implementation of a removal,
9 47 replacement, collection, and recovery system, and
9 48 annually thereafter, a manufacturer subject to section
9 49 455B.803 shall report to the department concerning the
9 50 performance under the manufacturer's plan. The report
10 1 shall include, but not be limited to, all of the
10 2 following:

10 3 1. A detailed description and documentation of the
10 4 capture rate achieved.

10 5 2. A plan to implement additional or alternative
10 6 actions, if necessary to improve the capture rate.

10 7 3. A listing of the public educational initiatives
10 8 implemented, including size of audience reached.

10 9 4. Any changes in the participation of the
10 10 necessary parties for the plan to be effectively
10 11 implemented.

10 12 Sec. 11. NEW SECTION. 455B.810 PUBLIC EDUCATION
10 13 AND OUTREACH.

10 14 1. A manufacturer shall implement a comprehensive
10 15 education and outreach program for the general public
10 16 and the parties willingly participating in the
10 17 manufacturer's removal, replacement, collection,
10 18 recovery, and disposal system established under this
10 19 division. The education and outreach program shall
10 20 focus on the hazards related to, and the proper
10 21 handling of, mercury; the requirements and obligations
10 22 of individuals, manufacturers, and agencies under this
10 23 division; and the details of the system established
10 24 under this division.

10 25 2. In collaboration with manufacturers, the
10 26 department shall supplement this education and
10 27 outreach program with an assistance program for
10 28 businesses that might participate in the removal,
10 29 replacement, collection, recovery, and disposal system

10 30 established under this division.
10 31 3. Willingly participating parties in a removal,
10 32 replacement, collection, recovery, and disposal system
10 33 shall implement a public education and outreach
10 34 program focused on their participation in the system.
10 35 Sec. 12. NEW SECTION. 455B.811 STATE
10 36 PROCUREMENT.
10 37 Notwithstanding other policies and guidelines for
10 38 the procurement of vehicles, the state shall, within
10 39 one year of the effective date of this Act, revise its
10 40 policies, rules, and procedures to give priority and
10 41 preference to the purchase of vehicles free of
10 42 mercury-added components taking into consideration
10 43 competition, price, availability, and performance.
10 44 Sec. 13. NEW SECTION. 455B.812 UNIVERSAL WASTE.
10 45 The department shall adopt rules pursuant to
10 46 chapter 17A governing universal hazardous waste, as
10 47 defined by the federal environmental protection
10 48 agency, as appropriate to promote the collection,
10 49 transport, recovery, and proper management of mercury=
10 50 added vehicle components.
11 1 DIVISION II
11 2 SALVAGE VEHICLE TITLES>
11 3 #2. Title page, line 1, by inserting after the
11 4 word <Act> the following: <relating to salvage
11 5 vehicles by providing for the removal, replacement,
11 6 collection, and recovery of mercury-added vehicle
11 7 components and>.
11 8 #3. By renumbering as necessary.
11 9
11 10
11 11
11 12 WILLIAM A. DOTZLER
11 13 HF 2362.201 81
11 14 dea/sh/3262